REMARKS/ARGUMENTS

Favorable reconsideration of this application as presently amended and in view of the following remarks is respectfully requested.

Claims 40, 41, 43 and 48-51 are presently active in the application. Claims 44-47 and 52-93 stand withdrawn from consideration in response to a previous restriction requirement. Claims 39 and 42 are canceled and Claims 41, 48 and 49 are amended by the present amendment.

In the outstanding Office Action, Claims 39, 42, 48, and 49 were rejected under 35 U.S.C. § 112, second paragraph; Claims 40, 41, 50, and 51 were rejected under 35 U.S.C. § 102(b) as anticipated by International Patent WO 98/57611 to Canto; Claims 39, 42, 48, and 49 were rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Patent No. 5,792,080 to Ookawa et al. (herein "Ookawa"); and Claim 43 was rejected under 35 U.S.C. § 103(a) as unpatentable over Canto in view of U.S. Patent No. 4,576,149 to Otuka et al. (herein "Otuka").

Applicants and applicants' representatives gratefully acknowledge the courtesy of a personal interview with Examiner Thanh and Supervisory Examiner DeMille on June 23, 2004. During the interview, differences between the present invention and references cited in the outstanding Office Action were discussed. No agreement was reached regarding patentability. Comments discussed during the interview are reiterated below and additional arguments are presented.

Regarding the rejection of Claims 39, 42, 48, and 49 under 35 U.S.C. § 112, second paragraph, Claims 39 and 42 are canceled and Claims 48 and 49 are amended in light of the outstanding Office Action, to clearly recite the features which the applicants regard as the invention. Accordingly, it is respectfully requested that rejection be withdrawn.

Claims 40-41 and 50-51 were rejected under 35 U.S.C. § 102(b) as anticipated by Canto. Applicants respectfully traverse that rejection.

Claim 40 is directed to a massaging apparatus that includes a supporting arm directly connected to a therapeutic member by a supporting shaft. The supporting arm is pivotally supported on the massaging apparatus and the supporting arm is moveable along a body of a user. The massaging apparatus also includes a pivotal-position-detecting sensor configured to detect that the supporting arm has reached a prescribed range of pivotal positions. In addition, the massaging apparatus includes a control element configured to determine a position of a specific portion of the body of the user with respect to the massaging apparatus from a vertical position of the supporting arm at a moment when a pivotal position of the supporting arm has reached the prescribed range of pivotal positions. Independent Claim 41 includes similar features.

In a nonlimiting example, Figures 1 and 2 show a supporting arm 26 directly connected to therapeutic members 8 and 9 by supporting shafts 49. The supporting arm with the therapeutic members is normally biased into position "a" by spring 55. However, as shown in Figure 8, when a user is seated in the chair 4, and when the supporting arm 26 moves vertically and reaches a position of a specific portion of the user's body (such as shoulder) the supporting arm pivots significantly toward a prescribed range of pivotal positions. Thus, the supporting arm 26 pivots in the counter clockwise direction to position "b" as shown in Figure 1. When the supporting arm 26 reaches the user's shoulder, the supporting arm 26 rotates counter clockwise as shown by the arrow "c" illustrated in Figure 1.

The pivotal position detecting sensor 60, illustrated in Figures 1 and 2, includes a light emitting element 57 and light detecting element 58. When the supporting arm 26 is in the position "b" indicated by the dashed lines, the light detecting element 58 can detect the light

from the light emitting element 57. However, when the supporting arm 26 rotates to the position "a" illustrated by the solid line in Figure 1, a portion of the supporting arm 26 blocks the path between the light emitting element 57 and the light detecting element 58 thereby indicating that the supporting arm 26 has reached the user's shoulder as indicated in Figure 8. See page 58, line 7 to page 61, line 12.

As discussed during the interview, Canto does not teach or suggest a control element configured to determine a position of a specific portion of the body of the user with respect to the massaging apparatus from a vertical position of the supporting arm at a moment when a pivotal position of the supporting arm has reached the prescribed range of pivotal positions. In Figure 3, Canto shows a supporting arm that supports the therapeutic member 6 or 15. The sensor 17 relied upon in the Office Action as the pivotal position detecting sensor appears to detect only the angular position of associated shaft 2 or 11 with respect to the axis of rotation of motors 1 or 10, respectively.

However, as illustrated in Figure 3, the supporting arm 5 or 14 is free to swivel about an unlabeled central access constrained only by an unlabeled spring. Thus, it is not possible to determine an angular position of the supporting arm on which the therapeutic members are directly mounted from the angular position of associated shaft 2 or 11 in Canto. Hence, it is respectfully submitted that Canto does not teach or suggest "a supporting arm directly connected to a therapeutic member by a supporting shaft . . . a pivotal-position-detecting sensor configured to detect that the supporting arm has reached a prescribed range of pivotal positions and a control element configured to determine a position of a specific portion of the body of the user with respect to the massaging apparatus from a vertical position of the supporting arm at a moment when a pivotal position of the supporting arm has reached the prescribed range of pivotal positions," as in independent Claims 40 and 41.

Accordingly, it is respectfully submitted that independent Claims 40 and 41, and claims dependent thereon, patentably define over Canto.

Claims 39, 42, 48, and 49 were rejected under 35 U.S.C. § 102(b) as anticipated by Ookawa. Applicants respectfully traverse that rejection.

As discussed during the interview, Ookawa does not teach or suggest a sensor configured to detect a position of a specific portion of a user when a pivotal position of the supporting arm has reached the prescribed range of pivotal postions. Ookawa indicates that a user's shoulder position may be detected based on a pressure variation or a projecting position. Regarding pressure variation, Ookawa describes 6 methods of determining shoulder position based on an output of pressure sensor 110, as shown in FIGs. 2 and 23-26, and as discussed at column 9, line 56, to column 10, line 27. In particular, each of these methods is based only on a pressing force P, as determined by the pressure sensor 110, as shown in FIGs. 23-26. In other words, with these methods, Ookawa discloses detecting a position of a user's shoulder based on a pressure sensor, but does not teach or suggest determining any pivotal position of a supporting arm, as in the claimed invention.

Further, Ookawa also discloses that the user's shoulder position may be detected by a projection distribution of the "varying projection amount of the applicators plotted while moving the applicators in such a manner to keep the counter pressure at the fixed level, as shown in FIGS. 28A and 28B."[1] As shown in FIG. 28B, the applicators 86 project a varying amount in the direction of the user at different places along the user's back. As shown in FIG. 28A, it is this variation in projection amount in the direction of the user that is used to form a projection distribution from which the user's shoulder position may be determined. As shown in FIG. 28B and in FIG. 5, an angle of the applicator support 85 varies slightly at different positions along the user's back, but these variations are not represented in the

[1] Ookawa at column 11, lines 1-7.

projection distribution of FIG. 28A and Ookawa does not teach or disclose determining any pivotal position variation, and thus the pivotal position of the applicator support 85 does not contribute to the determination of the position of the user's shoulder. Accordingly, it is respectfully submitted that Ookawa does not teach or suggest "a control element configured to determine a position of a specific portion of the body of the user with respect to the massaging apparatus from a vertical position of the supporting arm at a moment when a pivotal position of the supporting arm has reached the prescribed range of pivotal positions," as in amended Claims 40 and 41.

Accordingly, it is respectfully submitted that independent Claims 40 and 41, and claims dependent therefrom, patentably define over Ookawa.

Claim 43 was rejected under 35 U.S.C. § 103(a) as unpatentable over Canto in view of Otuka. Applicants respectfully traverse that rejection.

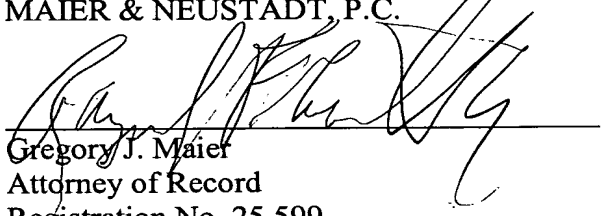
Claim 43 depends on Claim 40, which is believed to patentably define over Canto, as discussed above. Further, applicants respectfully submit that Otuka also does not teach or suggest the features of the independent claims. Accordingly, applicants respectfully request that rejection be withdrawn.

Accordingly, applicants respectfully submit that independent Claims 40-41, and claims depending therefrom, are allowable.

Consequently, in light of the above discussion and in view of the present amendment, the present application is believed to be in condition for allowance and an early and favorable action to that effect is respectfully requested.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.



Gregory J. Maier
Attorney of Record
Registration No. 25,599

Raymond F. Cardillo, Jr.
Registration No. 40,440

Customer Number
22850

Tel: (703) 413-3000
Fax: (703) 413 -2220
(OSMMN 08/03)

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